



Arizona Ombudsman-Citizens' Aide

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May 2, 2018

The Honorable X
Arizona House of Representatives
1700 West Washington Rm X
Phoenix, AZ 85007

Dear Representative X:

Enclosed is a copy of the Ombudsman-Citizens' Aide (OCA) investigative report of the Department of Child Safety ("DCS"), case number 1701644.

We investigated a complaint that DCS acted unlawfully by failing to provide a mother with appeal information and by proposing to substantiate a report of neglect against her. The Complainant's allegation and presentation of the facts and our subsequent investigation revealed five primary issues related to DCS's handling of the case.

We found:

1. DCS acted contrary to law because it did not provide timely written notice as specifically required by A.R.S. § 8-811.
2. DCS acted inefficiently by having the worker assigned to the case send the Complainant a letter of the proposed substantiation despite the agency having assigned the agency's responsibility for complying with the written notice requirement of A.R.S. §8-811 to its Protective Services Review Team (PSRT) section.
3. DCS was unreasonable when, months after DCS sent the Complainant a letter proposing substantiation of the allegation against her, DCS subsequently sent the Complainant a second letter stating DCS "unsubstantiated" the same allegation. DCS's second letter did not explain whether this second letter superseded the previous letter or why DCS changed its finding.
4. DCS did not provide a legally sufficient explanation for why it initially proposed to find that the Complainant had neglected the children by posting a video on social media of one child feeding another child blended food. DCS's proposed substantiation of "neglect" in this case was unsupported by an adequate statement of reasons and contrary to law.
5. DCS acted contrary to law, unreasonably, unfairly, and/or unsupported by an adequate statement of reasons by not examining and/or retaining the video evidence that constituted the basis for a proposed finding of neglect against the Complainant.

DCS agrees with our first and fifth findings, but disagrees with our second and fourth findings. As for our third finding, DCS seems to agree with our recommendation and our finding, but disagrees that the actions that lead to that finding were unreasonable.

Although DCS disagrees with some of our conclusions and recommendations, there seems to be no major disputes over the facts of what occurred in this matter. The only dispute is that DCS maintains the Complainant seemed content with how DCS initially handled her complaint.

Following our report is DCS's official, unaltered agency response to our report. In it, the agency emphasizes three points I am compelled to address. First, the agency notes how long it took the agency to resolve the

Complainant's complaint. Second, as indicated above, the agency notes the Complainant had indicated to DCS that the Complainant was satisfied with how DCS was managing her complaint. Third, the agency addresses our office's authority to investigate the five issues described above.

First, the agency said in its response, "[T]he total time from initial contact by the Complainant to resolution of the matter was just 13 days" It is not clear to us why DCS noted how long it took the DCS Ombudsman office to address the Complainant's complaint. We do not dispute and we made no findings regarding how long it took DCS to address the complaint. Instead, we addressed DCS's failure to provide the Complainant with information as to how she could appeal the agency's proposed finding as required by law. As we explain in detail in our report, the law requires that DCS provide this information within 14 days of when it proposes its finding. In this case, by the time the Complainant complained to the DCS Ombudsman office and our office, over 60 days had elapsed without DCS having provided the legally required information. Additionally, the DCS Ombudsman office then told the Complainant that it was backlogged and it might take an additional 60 days before DCS provided her with the appeal information. The DCS Ombudsman Office initially gave no indication to the Complainant or our office that it would further address her complaint. Instead, the DCS Ombudsman office gave the Complainant and our office the impression that the Complainant would simply have to wait – she would have to wait until DCS was able to find time to review her case and provide her with the appeal information she was entitled to by law.

Second, DCS stated in its response, "[T]he Complainant indicated to the Department that she was satisfied with how her complaint was being managed." No one from our office was present when the Complainant spoke to the DCS Ombudsman office. However, looking at this logically, the Complainant would not have contacted to our office or persisted with her objection had she been satisfied with DCS. She never communicated or implied to our office that she was satisfied with how DCS was addressing her complaint. To this day, the Complainant tells us she was unsatisfied with DCS's handling of her case and complaint until the agency reversed its finding.

Third, DCS stated in its response, "[I]t appears that the scope of this investigation went beyond the issue that the Complainant initially raised—namely that she wished to know when she would receive an appeal notice and that she disagreed with the proposed finding." As we explain in our report, it is our primary function to investigate complaints about the administrative acts of agencies and report our findings to the Legislature, Governor, prosecutors, and/or the public. DCS seems to believe our office should ignore any additional wrongdoing on the part of an agency that we uncover while investigating a complaint. We disagree. We cannot avert our gaze from wrongdoing when we find it in the course of an investigation any more than DCS can when it investigates claims of abuse or neglect against children. The spirit and intent of our work is to encourage and assist State agencies to follow the law and ensure that the administrative actions taken by the agencies are appropriate while serving the citizens of Arizona. It is in this spirit that we submit this report to the Governor and the Arizona State Legislature.

The attached investigation cites various exhibits to support our findings and recommendations, as well as the unedited and complete DCS agency response. Should you have any questions regarding our report or recommendations, please feel free to contact me at 602-277-7292.

Sincerely,

Dennis Wells
Ombudsman-Citizens' Aide

Enclosure

Report of Investigation



Arizona Ombudsman - Citizens' Aide
Final Report of Investigation
Case # 1701644
Department of Child Safety
March 23, 2018

Arizona Ombudsman
CITIZENS' AIDE

Ombudsman Authority

The Arizona Ombudsman-Citizens' Aide conducted an investigation of the Department of Child Safety in accordance with A.R.S. §§ 41-1376-41-1380 and A.A.C. Title 2, Chapter 16.

Pursuant to our legal authority:

The Ombudsman – Citizens' Aide "shall . . . [i]nvestigate the administrative acts of agencies." A.R.S. § 41-1376(A).

Upon receiving a complaint, the OCA "may investigate administrative acts of agencies that the ombudsman-citizens aide has reason to believe may be . . . [c]ontrary to law." A.R.S. § 41-1377(A).

"[T]he ombudsman-citizens aide may present the ombudsman-citizens aide's opinion and recommendations to the governor, the legislature, the office of the appropriate prosecutor or the public, or any combination of these persons." A.R.S. § 41-1376(B).

The Ombudsman – Citizens' Aide's opinion shall include "the reply of the agency, including those issues that were resolved as a result of the ombudsman-citizens aide's preliminary opinion or recommendation." A.R.S. § 41-1376(B).

Summary

On May 11, 2017, a step-mother filed a complaint with the Arizona Ombudsman-Citizens' Aide's office alleging that the Department of Child Safety failed to comply with Arizona law by failing to properly inform the step-mother of her right to appeal DCS's proposed finding of substantiation of the neglect allegation made against her.

We find that the Department of Child Safety violated A.R.S. § 8-811 when it failed to provide proper written notice to the Complainant in the proper amount of time. Additionally, we find that DCS acted contrary to law, inefficiently, unreasonably, unfairly, and unsupported by an adequate statement of reasons about several other issues related to the stepmother's matter.

Background

On or about March 5, 2017,¹ the stepmother (hereinafter, "the Complainant") received a *Notice of Proposed Substantiation of Child Safety Report* (hereinafter, "the notice" or "the March 5 notice") from the Department of Child Safety (hereinafter, "DCS" or "the Department") informing her that, based upon the information collected through an investigation, DCS found credible evidence supporting the report of neglect made against her and was proposing to substantiate the report.² The notice also advised that the DCS Protective Services Review Team (hereinafter, "PSRT") would be sending a separate letter that would explain her right to appeal the DCS decision.³ In addition, the notice offered/recommended several services to the Complainant.⁴

Determined to dispute the DCS allegations and appeal the DCS decision, the Complainant waited for the letter from PSRT. On May 11, 2017, over two months after receiving the

¹ The *Notice of Proposed Substantiation of Child Safety Report* was dated March 5, 2017, but it is not clear on what date the Complainant received the notice.

² Exhibit 1.

³ Id.

⁴ Id.

notice proposing substantiation, the Complainant still had yet to receive anything from PSRT. Concerned, she contacted the Arizona Ombudsman-Citizens' Aide's office (hereinafter, "the OCA" or "our office"). The Complainant explained that she previously had contacted the DCS Ombudsman's office and inquired about the PSRT letter only to be informed she may still need to wait an additional 30 to 60 days to receive it. The Complainant had already waited over 60 days, so that meant the Complainant was now facing a potential total wait of 120 days for the PSRT letter to arrive. As a result, the complainant asked our office to investigate.

On May 11, 2017 our office contacted DCS about the matter.⁵ DCS explained that it had informed the Complainant that she could follow up again with DCS in 30-60 days if she still had not received the PSRT letter.⁶ DCS also explained that it had yet to assign the Complainant's case to a PSRT reviewer.⁷

Our office reviewed the Complainant's case in DCS's Children's Information Library and Data Source (hereinafter, "CHILDS") system. The DCS allegation of neglect centered on a video posted on social media. According to DCS, the video showed the Complainant's nine-year-old step-child feeding her seven-year-old step-child "blended food with a spoon because she did not want to eat."⁸ DCS decided that the Complainant neglected the seven-year-old because DCS staff felt the video "belittled and humiliated" the child.⁹ Additionally, DCS decided that the Complainant neglected the nine-year-old child because DCS staff felt the video put him "in a parenting role and plac[ed] him at an unreasonable risk of harm when he was forced to feed, belittle, and humiliate his sister."¹⁰

According to the Comprehensive Child Safety and Risk Assessment (hereinafter, "CSRA") DCS created for the case, the seven-year-old indicated that the Complainant feeds her in this manner because "she doesn't eat." The CSRA also indicated that the Complainant had told the DCS worker assigned to the case that she had sought to embarrass the seven-year-old in order to get her to eat and that she should not have done it. In the CSRA's "Impending Danger Analysis" section, DCS indicated in February of 2017 that "[t]here are no observable family conditions or parental behaviors that are likely to cause severe harm to any of the children." Additionally, it indicated, "None of the 17 safety threats were found to exist at this time."

The CSRA also indicated that two DCS employees "observed the video" and it was "clear" to them that based on her reactions, the seven-year-old "was in emotional distress, by her brother attempting to feed her." When our office requested that DCS provide our office with the video, DCS informed our office that it did not "have a copy of the video."¹¹

⁵ Exhibit 2.

⁶ Exhibit 3

⁷ Id.

⁸ Exhibit 4.

⁹ Id.

¹⁰ Id.

¹¹ Exhibit 5.

The Complainant, on the other hand, said that DCS's characterization of what had occurred was exaggerated. She asserted to our office that the video was not intended to embarrass the children. She said that she had fed the seven-year-old pureed food because it was the only way to get the seven-year-old to eat food that was not obtained from a fast-food restaurant. Additionally, the Complainant asserted that she created and posted the video via her Facebook account in order to solicit advice from her friends and other parents who experienced similar difficulties in feeding children.

The Complainant also told our office that she had addressed the entire matter with the children's counselor. She further said that the children's counselor had told her that, although the counselor did not agree with the Complainant's actions, the counselor did not feel that they warranted a finding of neglect against the Complainant.

On May 18, 2017, the DCS Ombudsman's office explained that PSRT had "sent the finding statements back to the field to correct."¹²

On May 22, 2017, DCS advised our office that DCS would be "unsubstantiating" the allegation of neglect against the Complainant.¹³

On May 24, 2017, the Complainant received a *Notice of Unsubstantiated Child Safety Report* from DCS.¹⁴

After our office's initial, informal review¹⁵ of this matter, we became concerned that DCS had not handled the matter properly in several ways. As a result, we provided the Department with written notice¹⁶ of our intent to formally investigate the Department for how it handled the Complainant's matter so that we could lawfully proceed¹⁷ with creating a public report of our office's findings.

After our office's initial, informal review of this matter, we became concerned that DCS had not handled the matter properly in several ways.

Authority

The Ombudsman – Citizens' Aide has authority to investigate a complaint and issue public reports on administrative acts of agencies, pursuant to Title 41, Chapter 8, Article 5 of the Arizona Revised Statutes and Title 2, Chapter 16 of the Arizona Administrative Code.

¹² Exhibit 5.

¹³ Exhibit 14.

¹⁴ Exhibit 6

¹⁵ See A.A.C. R2-16-303.

¹⁶ Exhibit 7.

¹⁷ See A.R.S. §§ 41-1376(B) and 41-1379.

Once our office has received a complaint about an administrative action(s) of an agency, the Ombudsman-Citizens' Aide Office "may investigate administrative acts of agencies that the ombudsman-citizens aide has reason to believe may be . . . [c]ontrary to law, . . . [u]nreasonable, unfair, . . . [u]nsupported by an adequate statement of reasons," or "[p]erformed in an inefficient or discourteous manner."¹⁸ Further, our office may, "may investigate to find an appropriate remedy."¹⁹ After completing an investigation and consulting with the agency about the OCA findings and recommendations, the OCA may present its opinions and recommendations to the Governor, the Legislature, an appropriate prosecutor, and the public.²⁰

Specific to DCS, the Legislature has said, "It is the intent of the legislature that the ombudsman-citizens aide prioritize the investigation and processing of complaints relating to the department of child safety."²¹ Further, various provisions in Title 8 of the Arizona Revised Statutes, instruct DCS to inform a person involved with DCS that they may complain to the ombudsman-citizens' aide.²² Title 8 also says the ombudsman-citizens' aide office is a designated oversight organization of DCS.²³

Allegations

The Complainant alleged that DCS acted unlawfully by failing to provide her with information as to how to appeal the agency's proposed finding of "substantiation." The Complainant's allegation and our subsequent investigation revealed a total of five primary issues related to DCS's initial proposed finding of substantiation against the Complainant. As indicated above,²⁴ the OCA, on receiving a complaint, "may investigate administrative acts of agencies that the ombudsman-citizens aide has reason to believe may be . . . [c]ontrary to law, . . . [u]nreasonable, unfair, . . . [u]nsupported by an adequate statement of reasons," or "[p]erformed in an inefficient or discourteous manner."²⁵ Because our initial investigation revealed additional issues with how DCS handled the Complainant's matter that come within our jurisdiction to investigate, our office's investigation expanded to include these issues.

1. Did DCS act contrary to law by failing to provide timely written notice as specifically required by A.R.S. § 8-811?
2. Did DCS act inefficiently by having the worker assigned to the Complainant's case send the Complainant a letter of the proposed substantiation despite the agency having assigned the responsibility to PSRT for complying with the notice requirement of A.R.S. §8-811 to its PSRT section?

¹⁸ A.R.S. § 41-1377(A).

¹⁹ A.R.S. § 41-1377(B)

²⁰ See A.R.S. § 41-1376(B).

²¹ 2017 Ariz. Legis. Serv. 1523. (West).

²² See A.R.S. §§ 8-803, 8-823, and 8-807.

²³ *Id.*

²⁴ See discussion *supra* p. 3.

²⁵ A.R.S. § 41-1377(A).

3. Did DCS act unreasonably when, months after it sent the Complainant a letter proposing substantiation of the allegation against her, it sent the Complainant a second letter indicating that the allegation would not be substantiated?
4. Did DCS take action unsupported by an adequate statement of reasons when the worker assigned to the Complainant's case made a finding of neglect against her for a set of facts that did not appear to meet the statutory definition for neglect?
5. Did DCS act contrary to law, unreasonably, unfairly, and/or unsupported by an adequate statement of reasons by not examining and/or retaining the evidence that constituted the basis for a proposed finding of neglect against the Complainant?

Findings:

Finding 1: Substantiated

DCS acted contrary to law because it did not provide timely written notice as specifically required by A.R.S. § 8-811.

On March 5, 2017, the DCS specialist assigned to the Complainant's case, issued her a *Notice of Proposed Substantiation of Child Safety Report*²⁶ (hereinafter, "the Notice"). The Notice indicated that DCS's investigation of the report against the Complainant was completed and her "case will be closed."²⁷ Additionally, the Notice indicated that "DCS found credible evidence supporting the allegations" against the Complainant and "is proposing to substantiate the report" made against the Complainant.²⁸ The Notice also indicated that the Complainant could "appeal that decision as explained in the pamphlet, *A Guide to the Department of Child Safety*."²⁹ Lastly, the Notice said, "[y]ou will receive a letter from [PSRT] that will explain your right to appeal this decision."³⁰

To determine whether DCS acted lawfully, we consulted Arizona statutes, specifically A.R.S. § 8-811, in order to verify what information DCS must provide to the subject of a report it plans to substantiate.

A.R.S. § 8-811 (hereinafter, "A.R.S. § 8-811" or "the statute") reads, in part:

A. The department shall notify a person who is alleged to have abused or neglected a child that the department intends to substantiate the allegation in the central registry pursuant to section 8-804 and of that person's right:

- 1. To receive a copy of the report containing the allegation.*
- 2. To a hearing before the entry into the central registry.*

²⁶ Exhibit 1.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

B. The department shall provide the notice prescribed in subsection A of this section by first class mail or by personal service no more than fourteen days after completion of the investigation.

C. A request for a hearing on the proposed finding must be received by the department within twenty days after the mailing or personal service of the notice by the department.

The statute requires that DCS provide written notice to the subject of a report of abuse or neglect that DCS intends to substantiate within fourteen days of when DCS completes its investigation of the report.

The statute requires that DCS provide written notice to the subject of a report of abuse or neglect that DCS intends to substantiate within fourteen days of when DCS completes its investigation of the report. This notice must also inform the subject of their right to obtain the report containing the allegation against them and to a hearing to contest their entry into the central registry before it occurs.

The Notice that DCS provided to the Complainant did not inform the Complainant of her right to receive a copy of the report against her, and it did not specifically inform her that she had the right to a hearing.³¹

According to various DCS documents and resources, PSRT appears to be tasked with meeting the requirements set out in A.R.S. § 8-811.³² In a previous and unrelated matter, DCS had given us this same impression – that DCS's PSRT section was tasked by DCS with providing the notice set out in A.R.S. § 8-811.³³ In light of the above and our conversations with DCS involving this matter, we are under the impression that the Notice is a standard form letter DCS uses for these types of cases and was not intended to meet the requirements of A.R.S. § 8-811. Instead, responsibility for providing written notice that satisfies the requirements set out in A.R.S. § 8-811 is assigned by DCS to its PSRT section and not to workers who are assigned to individual cases.

Again, the Notice, issued on March 5, indicated that DCS had completed its investigation.³⁴ The statute requires that DCS provide the written notice "no more than fourteen days after completion of the investigation." If one gives DCS maximum leeway by assuming that it completed its investigation on March 5 and only business days count toward the fourteen-day period, the statutorily prescribed written notice would have been due to the Complainant by March 23. The Complainant first reached out to us about the matter on May 11, and we contacted the DCS Ombudsman's office about the matter that same day.³⁵ By this time, about a month and a half had passed since the date by which DCS was required to have provided the Complainant with the written notice set out in the statute.

³¹ See Exhibit 1.

³² See Exhibits 8, 9, 10, and 11.

³³ See Exhibit 12.

³⁴ See Exhibit 1.

³⁵ Exhibit 2.

Also on May 11, DCS clarified with us that it told the Complainant that same day to check back with DCS in 30-60 days if she still had not received the required written notice from PSRT.³⁶ On May 16, DCS seemed to concede that it had not complied with the time requirement in the statute.³⁷ DCS also indicated to us that the Department had yet to assign the matter to a PSRT employee.³⁸ The DCS Ombudsman's office said it had told the Complainant that it was willing to "share [the Complainant's] concern with PSRT."³⁹⁴⁰ DCS also said, "[U]nfortunately it is a known issue that PSRT is severely backlogged," leading us to believe that this is a systemic issue.⁴¹

Eventually, DCS would change its course on the matter and find the report against the Complainant as unsubstantiated.⁴²

In sum, DCS did not comply with A.R.S. § 8-811. It failed to provide written notice to the Complainant informing her of her right to obtain the report containing the allegation against her and to a hearing to contest her entry into the central registry before it occurs. The Department had fourteen days from when it completed its investigation to provide written notice to the Complainant, yet, after at least a month and a half had elapsed, DCS had still not provided the required written notice to the Complainant.

Finding 2: Substantiated

DCS acted inefficiently by having the worker assigned to the case send the Complainant a letter of the proposed substantiation despite the agency having assigned the agency's responsibility for complying with the written notice requirement of A.R.S. §8-811 to its PSRT section.

As noted above, A.R.S. § 8-811(B) states, "The department shall provide the notice prescribed in subsection A of this section by first class mail or by personal service no more than fourteen days after completion of the investigation."

DCS indicated that it completed its investigation of the report made against the Complainant by March 5.⁴³ On that same day, the DCS specialist assigned to the case issued the Notice to the

³⁶ Exhibit 3.

³⁷ Exhibit 13.

³⁸ Id.

³⁹ Id.

⁴⁰ It is not clear to our office why the DCS Ombudsman's office felt it was more appropriate to offer to relay concerns about PSRT's failure to comply with Arizona statute to PSRT than to address it with or relay it to DCS management. In our dealings with the DCS Ombudsman's office in this case and in other similar cases, the DCS Ombudsman's office often acts like and speaks about PSRT as if PSRT is an independent agency that exists and operates outside the purview of the DCS Ombudsman's office and DCS management.

⁴¹ Exhibit 13.

⁴² Exhibit 6.

⁴³ See Exhibit 4.

Complainant.⁴⁴ Although the Notice did not meet all of the requirements of the written notice required by A.R.S. § 8-811,⁴⁵ it resembles what proper written notice under A.R.S. § 8-811 might look like.

DCS has assigned the responsibility of complying with A.R.S. § 8-811 to its PSRT section.⁴⁶ PSRT is a creation of DCS management and is not specifically established or discussed in statute. As best we can tell, PSRT's main purposes are to provide a third review of a case and DCS's proposed finding and to provide information about how to appeal proposed DCS findings. The DCS caseworker makes the initial determination about whether to substantiate a finding, and then a DCS supervisor reviews that decision. The supervisor then forwards the case over to PSRT for additional review and to facilitate possible appeal.

The DCS Ombudsman explained to our office that PSRT is backlogged and unable to meet the time requirements set out in the statute.⁴⁷ As indicated above, PSRT may take up to and perhaps more than 120 calendar days to issue the written notice required by A.R.S. § 8-811.⁴⁸

With PSRT backlogged and unable to comply with the time requirement set out in A.R.S. § 8-811, it is unclear why DCS continues to place responsibility for the agency complying with the statute's written notice requirements with PSRT. It is especially puzzling in light of the fact that it is already Department practice to have the assigned case specialists issues notices (such as the March 5 notice) that resemble the written notice set out in A.R.S. § 8-811 and would be more likely to meet the statute's time requirement.

Thus, we find DCS's current practice of having an overburdened PSRT section responsible for issuing the written notice required by A.R.S. § 8-811 to be inefficient, particularly in light of the fact that DCS specialists currently issue similar notices that are more likely to meet the statutory time requirement.

⁴⁴ Exhibit 1.

⁴⁵ See discussion *supra* pp. 4-5.

⁴⁶ See Exhibits 8, 9, 10, 11, and 12.

⁴⁷ See Exhibit 13.

⁴⁸ See discussion *supra* p. 1.

Finding 3: Substantiated

Months after DCS sent the Complainant a letter proposing substantiation of the allegation against her, DCS sent the Complainant a second letter stating DCS “unsubstantiated” the allegation. Our office finds that DCS acted unreasonably by not explaining whether this second letter superseded the previous letter or why DCS changed its finding.

On March 5, 2017, DCS issued a notice of *Notice of Proposed Substantiation of Child Safety Report* to the complainant.⁴⁹ The notice said that PSRT would send the Complainant a letter with additional information regarding an appeal.⁵⁰ Pursuant to A.R.S. § 8-811, the letter was due to the Complainant by March 23 at the latest.⁵¹ PSRT never sent the Complainant the letter, let alone by March 23, despite the Complainant reaching out to DCS about the letter.⁵²

On May 24, 2017, thirteen days after the Complainant had complained to our office and we first reached out to DCS about the matter, DCS issued the Complainant a *Notice of Unsubstantiated Child Safety Report*.⁵³

On May 24, 2017, thirteen days after the Complainant had complained to our office and we first reached out to DCS about the matter, DCS issued the Complainant a *Notice of Unsubstantiated Child Safety Report*.

In the March 5 notice, DCS said, “Based upon the information collected through the investigation of this report, DCS found credible evidence supporting the allegations” against the Complainant, and was “proposing to substantiate the report.”⁵⁴ The May 24 notice said, “Based upon the information collected through an investigation of this report, the report has been unsubstantiated.”⁵⁵ In the May 24 notice, DCS did not explain why its conclusion had changed, nor did DCS acknowledge the change. DCS also failed to explain whether the May 24 notice superseded the March 5 notice. DCS did not even acknowledge the March letter.

Instead, the two letters asserted directly opposite conclusions that are each “[b]ased upon the information collected through the investigation of this report”⁵⁶ without providing any explanation for the contradiction.⁵⁷ We think that a reasonable person who received these two letters would come away confused and frustrated, particularly in light of the fact that DCS had not followed through on its legal obligations to provide the written notice required by A.R.S. § 8-811 and promised in the March 5 notice.

⁴⁹ Exhibit 1.

⁵⁰ Id.

⁵¹ See discussion *supra* p. 5.

⁵² Id.

⁵³ Exhibit 6.

⁵⁴ Exhibit 1.

⁵⁵ Exhibit 6.

⁵⁶ Exhibits 1 and 6.

⁵⁷ See Id.

We find that DCS acted unreasonably by issuing the contradictory notices to the Complainant, as these notices were issued without explanation for the contradiction or any notice of either letters' supersession.

Finding 4: Substantiated

DCS has not provided a legally sufficient explanation for why it initially proposed to find that the Complainant had neglected the children. As a result, our office finds that DCS took action unsupported by an adequate statement of reasons and contrary to law by proposing to substantiate an allegation of neglect against the Complainant.

As noted above,⁵⁸ DCS informed our office that the Complainant's filming and publicly posting video of her nine-year-old step-child feeding her seven-year-old step-child "blended food with a spoon because she did not want to eat" was the basis for it initially proposing two findings of neglect against the Complainant.⁵⁹ Specifically, DCS decided that the Complainant neglected the seven-year-old because DCS staff felt the video "belittled and humiliated" the child.⁶⁰ Additionally, DCS decided that the Complainant neglected the nine-year-old child because DCS staff felt that the video put him "in a parenting role and plac[ed] him at an unreasonable risk of harm when he was forced to feed and belittle and humiliate his sister."⁶¹

Nowhere in DCS's CHILDS records or the March 5 notice did DCS explain how or why DCS determined that the alleged actions constituted neglect.

Our office also reviewed the statutory definition of "neglect", as defined in A.R.S. § 8-201(25).

A.R.S. § 8-201(25) defines "Neglect" or "neglected" to mean:

(a) The inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes unreasonable risk of harm to the child's health or welfare, except if the inability of a parent, guardian or custodian to provide services to meet the needs of a child with a disability or chronic illness is solely the result of the unavailability of reasonable services.

(b) Permitting a child to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purposes of manufacturing a dangerous drug as defined in section 13-3401.

⁵⁸ See discussion *supra* pp. 1-2.

⁵⁹ Exhibit 4.

⁶⁰ Id.

⁶¹ Id.

(c) A determination by a health professional that a newborn infant was exposed prenatally to a drug or substance listed in section 13-3401 and that this exposure was not the result of a medical treatment administered to the mother or the newborn infant by a health professional. This subdivision does not expand a health professional's duty to report neglect based on prenatal exposure to a drug or substance listed in section 13-3401 beyond the requirements prescribed pursuant to section 13-3620, subsection E. The determination by the health professional shall be based on one or more of the following:

- (i) Clinical indicators in the prenatal period including maternal and newborn presentation.*
- (ii) History of substance use or abuse.*
- (iii) Medical history.*
- (iv) Results of a toxicology or other laboratory test on the mother or the newborn infant.*

(d) Diagnosis by a health professional of an infant under one year of age with clinical findings consistent with fetal alcohol syndrome or fetal alcohol effects.

(e) Deliberate exposure of a child by a parent, guardian or custodian to sexual conduct as defined in section 13-3551 or to sexual contact, oral sexual contact or sexual intercourse as defined in section 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual materials as defined in section 13-3507.

(f) Any of the following acts committed by the child's parent, guardian or custodian with reckless disregard as to whether the child is physically present:

- (i) Sexual contact as defined in section 13-1401.*
- (ii) Oral sexual contact as defined in section 13-1401.*
- (iii) Sexual intercourse as defined in section 13-1401.*
- (iv) Bestiality as prescribed in section 13-1411.*

To our office's knowledge, DCS never explained which element of the statutory definition of neglect was met by the Complainant's alleged actions, or, again, how the Department arrived at its initial conclusion that she neglected the children. Our office compared DCS's description of the Complainant's actions and the Department's initial findings with the statutory definition of neglect, but we failed to find any aspect of the Complainant's alleged conduct that met the definition. Because the Complainant's conduct did not meet the statutory definition for neglect, DCS should not have proposed a finding of neglect against her. Eventually, DCS changed its finding from substantiation to unsubstantiation.⁶²

Additionally, the DCS Ombudsman's office acknowledged that the Complainant said she did not agree with the substantiation.⁶³ As far as we are aware, no one at DCS provided any oversight of the erroneous initial determination in the more than two months from when the determination was made until we began inquiring with DCS about the matter. Instead, the Complainant's only recourse was to wait for the PSRT review and to hope that this would correct the erroneous

⁶² Exhibit 6.

⁶³ See Exhibits 4 and 13.

determination⁶⁴ DCS itself concedes that PSRT is so behind that it is unable to meet statutory time requirements.⁶⁵ This prevents the Complainant and others like them from being able to initiate their appeal and subjects them to unwarranted anxiety.

DCS initially proposed to substantiate the report of neglect without providing an adequate statement of reasons for how or why it arrived at this finding. Furthermore, DCS's initial finding of neglect was contrary to law because it did not meet statutory definition for neglect.

Finding 5: Substantiated

DCS acted contrary to law, unreasonably, unfairly, and/or unsupported by an adequate statement of reasons by not examining and/or retaining the video evidence that constituted the basis for a proposed finding of neglect against the Complainant.

From what we now understand, DCS did not retain a copy of the evidence based on which it proposed substantiating a finding of neglect against the Complainant and may never have obtained the evidence at all. As mentioned above, DCS's initial finding of neglect seems to have been based entirely on the Complainant allegedly filming and publicly posting a video of her children.⁶⁶ DCS informed us that it did not have a copy of the alleged video.⁶⁷ Beyond DCS's say-so in the CHILDS records for the case, there is no evidence anyone from DCS ever watched the video. Additionally, we are not aware of DCS retaining or obtaining any evidence that the video was publicly posted. To reiterate, DCS did not retain and possibly never obtained any of the evidence based on which it proposed a finding of neglect against the Complainant.

...DCS did not retain and possibly never obtained any of the evidence based on which it proposed a finding of neglect against the Complainant.

We find it unfair to the Complainant and beyond any sense of reasonableness that DCS would propose to enter a finding of neglect against the Complainant into its central registry without retaining (and possibly without ever obtaining) the primary evidence of the alleged neglect.

Publicly posting the video is the only evidence DCS has cited to us for its initial determination that the Complainant neglected her stepchildren.⁶⁸ Although DCS never made it clear why or how it determined that these actions constituted neglect, it seems reasonably clear that these actions are the reason(s) DCS initially proposed a finding of neglect.⁶⁹ Without any evidence that these

⁶⁴ See Exhibits 4 and 13.

⁶⁵ See Exhibit 13.

⁶⁶ See discussion *supra* pp. 2 and 8.

⁶⁷ Exhibit 5.

⁶⁸ Exhibit 4.

⁶⁹ See Exhibit 4 and See discussion *supra* pp. 2 and 8.

actions occurred the way DCS described, we find this statement of reasons inadequate to support DCS proposing a finding of neglect.

DCS was required by statute and policy to acquire and maintain the video record and any other evidence to show that the Complainant publicly posted the video. It is unclear whether DCS ever obtained these records or whether it simply accessed them on a third party social media website. If at any point, DCS acquired or created a copy of the video or any records showing that the video had been posted, they would likely constitute public records subject to the public records law.⁷⁰ Furthermore, DCS was required by statute to obtain and/or create such records.

First, A.A.C. R21-4-103(A)(2) states, “DCS shall investigate or respond to each DCS Report by interviewing or personally observing the alleged child victim, interviewing other children and individuals, reviewing documents, and using other accepted investigative techniques, as necessary, to gather sufficient information to: . . . [s]upport or refute the allegation of abuse or neglect.”

Second, A.R.S. § 39-121.01(B) and (C) read:

B. All officers and public bodies shall maintain all records, including records as defined in section 41-151.18, reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from this state or any political subdivision of this state.

C. Each public body shall be responsible for the preservation, maintenance and care of that body's public records, and each officer shall be responsible for the preservation, maintenance and care of that officer's public records. It shall be the duty of each such body to carefully secure, protect and preserve public records from deterioration, mutilation, loss or destruction, unless disposed of pursuant to sections 41-151.15 and 41-151.19.

A.A.C. R21-4-103(A)(2) likely required DCS to gather the video and any others records that showed the Complainant publicly posted the video because these records, DCS would eventually contend,⁷¹ supported the its initial proposed finding of neglect. Pursuant to A.R.S. § 39-121.01, DCS would then have had to keep these records because they would be “reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from this state or any political subdivision of this state.”

We therefore find that DCS acted contrary to law by failing to maintain the video record and any other evidence to show that Complainant publicly posted the video. We suspect that DCS may also have acted contrary to law by failing to gather the records, but without more evidence, we cannot make such a finding.

⁷⁰ See Griffis v. Pinal County, 215 Ariz. 1, 156 P.3d 418 (2007).

⁷¹ See Exhibit 4 and See discussion *supra* pp. 2 and 8.

The absence of any evidence or explanation on which DCS based its determinations raises questions regarding DCS's investigation procedures and the competence of those assigned to investigate. DCS has realized and admits that the Department made an erroneous determination without retaining (and possibly obtaining) any evidence. To our knowledge, DCS has taken no steps to ensure that these errors do not occur again.

Recommendations

Recommendation 1:

Going forward, we recommend that DCS comply with the notice and time requirements set out in A.R.S. § 8-811 for every case in which it proposes a finding of substantiation.

Additionally, we recommend DCS examine its process for issuing the notice required by A.R.S. § 8-811 and consider modifying its process so that the Department will be more likely to meet the time requirements set out in the statute.

We believe these recommendations would bring DCS into compliance with the law and allow people like the Complainant, those whom DCS finds to have neglected, abused, or abandoned a child, to exercise their right to an appeal in a timelier manner. Additionally, DCS accepting these recommendations would decrease the amount of uncertainty and other negative effects that people like the Complainant are forced to endure while waiting for DCS to decide whether to actually substantiate the report(s) against them and proceed with the appeals process.

Recommendation 2:

We recommend that DCS shift responsibility for meeting the notice requirements laid out in A.R.S. § 8-811 to the case specialist or supervisor assigned to the individual cases.

DCS has conceded (and our own office's experience supports) that PSRT is currently unable to meet the statutory fourteen-day time requirement for providing the required notice. The DCS workers assigned to specific cases already provide written notice similar to what is required by A.R.S. § 8-811. From what we can tell of the notices provided by these workers, it would take minimal modifications to allow these workers to meet the notice requirements set out in the statute.

Alternatively, if DCS would like PSRT to maintain responsibility for the notice requirements set out in the statute, we recommend that DCS allocate additional resources to PSRT or take whatever other steps would be necessary for PSRT to provide the statutorily required notice in within the statutorily required fourteen day period. Again, this would bring DCS in compliance with A.R.S. § 8-811 and minimize the negative consequences suffered by people like the Complainant. Additionally, in this scenario, we would recommend that DCS cease having the workers who are assigned to specific cases issue notice of proposed substantiation. This would eliminate the redundancy and waste of having the workers assigned to specific cases issue letters similar to those that PSRT eventually sends out to comply with A.R.S. § 8-811.

Recommendation 3:

In cases in which DCS sends a notice indicating a proposal to substantiate, but later sends another notice superseding that decision, we recommend that DCS provide a thorough explanation so that people like the Complainant can fully understand what has occurred.

Following this recommendation would prevent the confusion that accompanies receiving two diametrically opposing finding letters from DCS with no explanation as to which finding is controlling and what caused DCS to change its finding.

Recommendation 4:

We recommend that DCS review the Complainant's matter to see how and why the worker assigned to the Complainant's case arrived at the conclusion that the Complainant's conduct constituted neglect. Additionally, we recommend DCS look into how and why the worker's supervisor approved a finding of neglect that did not meet the statutory definition for neglect.

Additionally, we recommend that DCS review how it handled the Complainant's case and act to prevent DCS employees from proposing findings of neglect, abuse, or abandonment when the facts of a particular matter do not meet the statutory definition of these terms.⁷² For instance, DCS may find it necessary to train its employees and modify its procedures so that erroneous proposed findings of neglect, abuse, and abandonment are less likely to occur.

Recommendation 5:

We recommend that DCS provide additional training to the employees assigned to the Complainant's case who did not obtain and/or retain a copy of the video on which the Department based its initial proposed finding of neglect.

Additionally, we recommend that DCS review its procedures and policies for obtaining and retaining evidence and complying with record-keeping laws. DCS should see whether modifications or additional oversight may be necessary in order for DCS to comply with its statutory responsibilities relating to these two areas.

⁷² Originally, we recommended to DCS that it provide some sort of corrective training to the worker and supervisor responsible for the initial proposed finding that the Complainant neglected her step-children. DCS has since informed us that the worker and supervisor are no longer employed with DCS.

Exhibits

Exhibit 1

Notice of Proposed Substantiation

EXHIBIT 1



Arizona Department of Child Safety

Douglas A. Ducey
Governor

Gregory McKay
Director

Notice of Proposed Substantiation of Child Safety Report

Date: 3/5/17

RE: [REDACTED] and [REDACTED]

Dear [REDACTED]

[REDACTED], the Department of Child Safety (DCS) received a report of suspected child abuse, neglect or abandonment regarding a child or children in your care, custody or control. The investigation has been completed, and based on the results of that investigation:

- ☒ Your case will be closed; or
☐ Your case will remain open to ensure child safety.

DCS has offered/recommend the following services as a result of the investigation:

Individual therapy
-Family therapy
-Psychological assessment - both children
Parenting Classes offered through AZ Parenting for [REDACTED]

Based upon the information collected through the investigation of this report, DCS found credible evidence supporting the allegations, and is proposing to substantiate the report. You may appeal that decision as explained in the pamphlet, *A Guide to the Department of Child Safety*. If you did not receive this pamphlet, please contact me and I will provide one to you. You should review this pamphlet, as it contains important information about the appeals process. In addition, you will receive a letter from the DCS Protective Services Review Team (PSRT) that will explain your right to appeal this decision.

Thank you for your cooperation and assistance with this investigation. Child safety is of the utmost importance to us. If you have any further questions, please contact me at [REDACTED]

Sincerely,
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Exhibit 2

Initial AZOCA Contact with DCS Ombudsman

EXHIBIT 2

From: Jennifer Olonan [mailto:████████@azoca.gov]
Sent: Thursday, May 11, 2017 1:31 PM
To: Ombudsman <Ombudsman@AZDCS.GOV>
Subject: Ombudsman Case #1701644 ██████████

Good Afternoon,

████████ contacted us about her case being closed as substantiated. She stated that she got the first letter from the CM but did not get the second letter from PSRT to appeal. She provided me with two CID's; ██████████ and ██████████. She stated she believes one case could be hers and one could be ██████████ case, but she was not sure. Can you check to see if she did get the letter and if she did not could we see why?

Just as an FYI; I am currently without CHILDS but the help desk is hoping it up and running soon. This is why I don't know what CID goes to what case.

Thanks,
Jen

--
Jennifer Olonan, Assistant Ombudsman
Arizona Ombudsman-Citizens' Aide
P| 602.277.7292
F| 602-277-7312
██████████
www.azoca.gov

Exhibit 3

DCS Email

EXHIBIT 3

From: Bruce, Sarah [REDACTED]@AZDCS.GOV]

Sent: Thursday, May 11, 2017 3:28 PM

To: Jennifer Olonan [REDACTED]@azoca.gov>

Subject: RE: Ombudsman Case #1701644 [REDACTED]

I actually just spoke with [REDACTED] earlier today around 1-2pm☺ the letter she has cited the two report numbers that were being investigated, not case numbers. I had her read it to me and it said reports. It is true one report has allegations on [REDACTED] and the other one has allegations on her. She will be getting a letter from PSRT as soon as someone is assigned. A psrt reviewer hasn't been assigned yet. I explained how the process works, got her current address and updated it today. She said she didn't have any further questions right now. I let her know she can call our office if it has been a like 30-60 days and she hasn't gotten her letter yet, she said that sounded good.

Many thanks,

Sarah Bruce

Phone [REDACTED]

[REDACTED]@azdcs.gov

Exhibit 4

DCS Email

EXHIBIT 4

From: Bruce, Sarah L. [mailto:██████████@AZDCS.GOV]
Sent: Tuesday, May 16, 2017 12:51 PM
To: Jennifer Olonan <██████████@azoca.gov>
Subject: RE: Ombudsman Case #1701644-██████████

I checked confirmed ██████ does not have her own case.

She also expressed to me that she did not agree with the substantiation. I explained that there is no substantiation at this time, only a proposal of substantiation. I explained at this point it stays as proposed, until it goes to PSRT, which is the process outlined in law where she can appeal the proposed substantiation. Our office does not stand in for this process, so I directed her to await the INL from PSRT so she can start her appeal.

Thank you for sharing that she does still have concerns about communication with PSRT. I will call her and discuss that matter with her and ensure her concern is provided to PSRT.

The finding date was 3/4/17 and the closure date was 3/5/17.

Finding explanation:

On or about ██████ neglected ██████ age 7 when she humiliated her by posting a video on social media showing her brother Wes feeding Hannah blended food with a spoon because she did not want to eat causing the child to be belittled and humiliated.

On or about ██████ neglected ██████ when she posted a video on social media showing ██████ feeding ██████ blended food with a spoon because she did not want to eat putting ██████ in a parenting role and placing him at an unreasonable risk of harm when he was forced to feed and belittle and humiliate his sister,

I'll ask the team for the video.

Many thanks,
Sarah Bruce
Phone ██████
██████████@azdcs.gov

Exhibit 5

DCS Email saying DCS does not have a copy of
the video

EXHIBIT 5

From: Bruce, Sarah L. [mailto:[REDACTED]@AZDCS.GOV]
Sent: Thursday, May 18, 2017 7:09 AM
To: Jennifer Olonan <[REDACTED]@azoca.gov>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

Good Morning, Jen. PSRT has sent the finding statements back to the field to correct. The filed is working on it now. They do not have a copy of the video

Many thanks,
Sarah Bruce
Phone [REDACTED]
[REDACTED]@azdcs.gov

Exhibit 6

Unsubstantiated Letter

EXHIBIT 6



Arizona Department of Child Safety

Douglas A. Ducey
Governor

Gregory McKay
Director

Notice of Unsubstantiated Child Safety Report

Ms. [REDACTED]

Date: 5/24/2017

RE: [REDACTED] and [REDACTED]

Dear Ms. [REDACTED]

On [REDACTED] and [REDACTED] the Department of Child Safety (DCS) received a report of suspected child abuse, neglect or abandonment regarding a child or children in your care, custody or control. Based upon the information collected through an investigation of this report, the report has been unsubstantiated and based on the results of the investigation:

- ☒ Your case will be closed; or
☐ Your case will remain open in order to ensure child safety.

DCS has offered/recommend the following services as a result of the investigation:

None

Thank you for your cooperation and assistance with this investigation. Child safety is of the utmost importance to us. If you have any further questions, please contact me at [REDACTED] or [REDACTED]@azdcs.gov.

Sincerely,

[REDACTED]
DCS Specialist
[REDACTED]
[REDACTED]

Exhibit 7

Notice of Intent to Investigate letter to DCS

EXHIBIT 7



Arizona Ombudsman-Citizens' Aide

3737 N. 7th St., Ste. 209
Phoenix, Arizona 85014
(602) 277-7292 (800) 872-2879

July 19, 2017

Director Gregory McKay
Arizona Department of Child Safety
Office of the Director
P.O. Box 6030, S/C C010-23
Phoenix, AZ 85005-6030

Re: Case # 1701644, [REDACTED]; CID [REDACTED]

Dear Director McKay:

This letter is notification of our intent, under the provisions of A.R.S. §§ 41-1378 and 41-1376, to conduct an investigation regarding a complaint filed by Ms. [REDACTED] against the Department of Child Safety (DCS). Ms. [REDACTED] alleges the following:

1. DCS acted contrary to law because it did not provide written notice as specifically required by A.R.S. § 8-811. The DCS Ombudsman's office provided us with information that leads us to believe that DCS did not comply with the time requirement of A.R.S. § 8-811 and that it is likely a systemic issue for DCS.
2. DCS acted inefficiently by having the caseworker assigned to the case send Ms. [REDACTED] a letter of the proposed substantiation despite the agency having assigned the agency's responsibility for complying with the notice requirement of A.R.S. §8-811 to its PSRT section.
3. DCS acted unreasonably, when, months after it sent Ms. [REDACTED] a letter proposing substantiation of the allegation against her, it sent Ms. [REDACTED] a second letter indicating that the allegation would not be substantiated. DCS did not explain whether this second letter superseded the previous letter. Additionally, the second letter did not clearly indicate whether the matter was entirely concluded.
4. DCS took action unsupported by an adequate statement of reasons when the worker assigned to Ms. [REDACTED]'s case made a finding of neglect against her for a set of facts that do not meet the statutory definition for neglect.
5. DCS acted contrary to law, unreasonably, unfairly, and/or unsupported by an adequate statement of reasons by not examining and/or retaining the evidence that constituted the basis for a proposed finding of neglect against Ms. [REDACTED]. Pursuant to A.R.S. § 41-1379(A), we will also be notifying the worker and supervisor assigned to Ms. [REDACTED]'s case of this allegation.

Thus far, Assistant Ombudsman Jennifer Olonan has worked with the DCS Ombudsman's office to obtain information and records concerning this complaint and to attempt to identify and correct any potential issues with how DCS handled the matter.

Please designate a primary point of contact for this matter and have that person contact Jennifer Olonan at [REDACTED] prior to the end of business on Wednesday, August 2, 2017.

In accordance with A.R.S. § 41-1376.01(D), it is against the policy of this state for any agency to take adverse action against an individual in retaliation because the individual cooperated with or provided information to the Ombudsman–Citizens' Aide.

Sincerely,

Dennis Wells
Ombudsman-Citizens' Aide

Exhibit 8

Protective Services Review Team (PSRT) Information

EXHIBIT 8

PSRT

CSO-1125A (9-14)
CPS-1016A (10-12)

ARIZONA DEPARTMENT OF CHILD SAFETY

PROTECTIVE SERVICES REVIEW TEAM (PSRT)

Our Mission

To provide appeal rights to persons who may have abused or neglected a child and provide quality assurance to DCS investigation findings.

What is the Central Registry?

Arizona State law requires the Department of Child Safety (DCS) to maintain a database or a list of all substantiated findings of child abuse and neglect. The Central Registry is a confidential database maintained by Arizona DCS. Information in the Central Registry is not available to the public or on the Internet. Substantiated findings are kept in the Central Registry for 25 years from the date of the report. The Department of Child Safety (DCS) has access to the information for the following reasons:

- To help assess the risk to a child when investigating a new report of child abuse or neglect.
- To complete background checks for certification of in-home day care providers and adoptive parents, as well as licensing of foster homes.
- To identify the nature and scope of child abuse and neglect in this state.
- The Central Registry will be used as a factor in a background screening to evaluate a person's qualifications for employment with the State of Arizona or its contracting agencies where the employment involves direct contact with children, and/or vulnerable adults.

DCS wants people to know that an entry in the Central Registry does not mean that someone is a bad person. A finding in the Central Registry will state that on a certain day an incident of abuse or neglect occurred. DCS uses the information in the Central Registry to track families, ensure children are safe and help determine a family's need for services.

What is the Protective Services Review Team?

The PSRT provides a parent, guardian or custodian who is alleged to have abused or neglected a child with an opportunity to disagree with the Department of Child Safety (DCS) proposed finding. If a person does not agree with the findings of the DCS investigation, he or she may request a hearing to appeal the finding. The PSRT is a separate program from DCS and will provide an impartial review of the DCS investigation to see if the proposed finding is accurate.

The PSRT reviews reports that have *proposed substantiated findings* of abuse or neglect after DCS investigations have been completed. Before a finding is entered in the Central Registry, the PSRT will send a letter to the person DCS believes is responsible for abusing or neglecting the child. This letter informs the person of their right to an appeal hearing and will include a form titled, "Request for DCS Findings Appeal."

The term "proposed substantiated finding" means DCS believes a child was abused or neglected as defined by Arizona law. It will be referred to in this notice as the "proposed finding" or "finding."

In order to substantiate a finding of abuse or neglect, DCS must identify facts that provide reasonable grounds to believe that the abuse or neglect occurred.

How does a person appeal a finding?

If a person disagrees with DCS that abuse or neglect occurred, he or she must complete and sign the Request for Findings Appeal form. This form must be returned within 14 days of receiving the letter. If a person does not request an appeal, the finding will be substantiated and entered in the Central Registry.

Is everyone eligible to appeal a finding?

If a person is a party in another legal proceeding that involves the same allegation of neglect or abuse, that person is not eligible for an appeal hearing. This can include dependency, criminal, domestic relations or other civil proceedings. If the legal proceeding is resolved in the person's favor, the person may then become eligible to appeal the finding if they contact the PSRT office.

The request for an appeal must be made timely. If a person requesting an appeal does not return the completed Request for Findings Appeal form within 14 days of receiving it, the request will be denied.

What happens when a finding is appealed?

The PSRT staff will review the DCS investigation and information provided by the person requesting the appeal to determine if there is sufficient evidence that a child was abused or neglected as defined by State law. If there *is not* enough evidence of abuse or neglect, the finding will not be substantiated or entered in the Central Registry. If there *is* enough evidence, the person will be notified by mail of this decision and a hearing with a judge will be scheduled.

A person can request an informal settlement conference prior to the hearing. A request to withdraw from the hearing can be made at any time. A substantiated finding will then be entered in the Central Registry.

Exhibit 9

Excerpt from DCS's "A Guide to the Department
of Child Safety" pamphlet

EXHIBIT 9

Appealing a DCS Substantiated Investigation Finding

After completing its investigation, if DCS has reason to believe that the parent, guardian or custodian abused or neglected the child, a letter will be sent to that person.

In all cases where DCS proposes to substantiate an allegation of abuse or neglect, the person against whom the allegation is being made will receive notification from the DCS Protective Services Review Team (PSRT). This notification will include instructions for appealing the allegation.

If an appeal is requested, the PSRT will review all information collected by DCS and determine if there is enough evidence to agree with the decision made by DCS. If the PSRT disagrees with the decision of DCS, the person will be sent a letter stating that the allegation of abuse or neglect will not be substantiated.

If the PSRT agrees with the decision of DCS, a hearing with the Office of Administrative Hearings will be scheduled for the person accused. At this hearing, an Administrative Law Judge will hear all of the evidence and make a decision about the allegation of abuse or neglect.

When a Child Needs Protection

Few of the children who are reported to DCS are actually removed from their homes. In most situations, the families and DCS work together to resolve safety concerns. The decision to remove a child is not made by one person.

The Child Safety Specialist discusses each case with a supervisor. When DCS removes a child from his/her home, or considers removing a child, DCS will hold a team decision-making meeting. This meeting brings together people who are involved with the child and the child's family. DCS encourages the family to bring supportive persons such as relatives, friends, neighbors or community persons to the meeting. The purpose of the meeting is to discuss the child's safety, where he/she will live, and to identify family resources that may help the family protect the child. DCS considers all viable options to protect the child from abuse or neglect prior to foster care placement.

Exhibit 10

PSRT Frequently Asked Questions



EXHIBIT 10

DEPARTMENT OF CHILD SAFETY Protective Services Review Team Frequently Asked Questions (FAQ)

What is the Protective Services Review Team?

The Protective Services Review Team (PSRT) provides appeal rights to a person who may have abused or neglected a child.

Why did I receive this letter?

PSRT is required to attempt to notify all parents, legal guardians, and alleged fathers named in the dependency petition indicating the Department of Child Safety (DCS) has proposed to substantiate an allegation of abuse or neglect, as stated in the dependency petition.

What is a dependency petition and what does it mean?

A dependency petition is a formal document filed in Superior Court, Juvenile Division that says your child may have been abused or neglected and is in need of protection. After a dependency petition is filed, court hearings will be scheduled with the judge.

Do I need an attorney?

The juvenile court will appoint an attorney to represent parents, legal guardians and alleged fathers of a child. If you cannot afford an attorney, one may be appointed free of charge or at a reduced fee.

What is the Central Registry?

The Central Registry is a confidential database maintained by DCS of all substantiated findings of abuse or neglect. If a judge determines that abuse or neglect occurred, your name will be placed in the Central Registry; this is the law.

What does substantiation mean?

Substantiation means that an allegation has proven to be true.

Who has access to the Central Registry?

Access to the Central Registry is strictly limited by law. State law allows the Central Registry to be checked for foster home licensing, adoptive parent certification, child care home certification, registration of unregulated child care homes with the child care resource and referral system, and home and community based services certification for services to children or vulnerable adults. State law allows the Central Registry to be checked by state agencies during the hiring process for positions that provide direct service to children or vulnerable adults. State law also allows the Central Registry to be checked by state contractors, subcontractors, and licensees for positions that provide direct service to children or vulnerable adults, such as group homes or adult care homes.

How do I get information about my next court date?

You can contact the Superior Court of the county in which the dependency petition was filed. The Superior Court and case number are found in the letter from PSRT.

How do I find out the name of my case manager and how do I contact them?

You may call the Child Abuse Hotline at 1-888-767-2445 to request contact with him or her.

Exhibit 11

PSRT Information from the DCS website

EXHIBIT 11

11/6/2017

A Guide to Department of Child Safety (DCS) | Arizona Department of Child Safety

State Agencies (<https://az.gov/agency-directory>)

State Services (<https://az.gov/directory/service/all>)

Visit OpenBooks (<https://openbooks.az.gov/>)

Ombudsman-Citizens Aide (<http://www.azoca.gov/>)

AZ.Gov (<https://az.gov/search/>)

(<https://az.gov>)



Arizona Department of Child Safety

(/)

Child Abuse Hotline:

(/) **1-888-SOS-CHILD (767-2445)** (tel:1-888-767-2445?utm_source=Child-Abuse-Hotline)

Search



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A Guide to Department of Child Safety (DCS)

Protective Services Review Team (PSRT)

The Protective Services Review Team (PSRT) provides notice (letters) to persons who have allegedly abused or neglected a child to inform that person that the Department proposes to place their name in the Central Registry. If you received a letter because a dependency petition has been filed in Superior Court and you desire more information, download the Frequently Asked Questions (FAQ) document, available in both English or Spanish, for answers to common questions.

Click this link for English Version (<https://dcs.az.gov/sites/default/files/CSO-1335A.doc>) Haga clic en este en lace para obtener la version Ingles (<https://dcs.az.gov/sites/default/files/CSO-1335A-S.doc>)

STATEWIDE POLICIES ([HTTP://AZ.GOV/POLICIES](http://az.gov/policies)) SITE MAP ([/SITEMAP](/sitemap)) CAREER OPPORTUNITIES ([/ABOUT/CHILD-PROTECTIVE-SERVICE-SPECIALIST](/about/child-protective-service-specialist))
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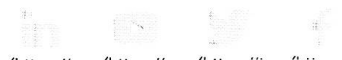


Exhibit 12

PSRT Review Process Email

PSRT Process

EXHIBIT 12

Subject: PSRT Process

From: [REDACTED]@azoca.gov>

Date: 2/23/2015 4:45 PM

To: [REDACTED]@azoca.gov>, [REDACTED]@azoca.gov>, [REDACTED]@AZOCA.gov>, [REDACTED]@azoca.gov>, [REDACTED]@azoca.gov>, [REDACTED]@azoca.gov>, [REDACTED]@azoca.gov>

Good Afternoon,

I spoke with Dave Graham about a case today. He explained the PSRT appeal process to me. I wanted to share it with everyone in case you get questions! Let me know if any of this does not make sense.

- 1) DCS substantiates. Sends subject letter saying they substantiated
- 2) PSRT sends letter explaining appeal rights.
 - A. Parents do not appeal - no review is done.
 - B. Parents appeal - PSRT has 60 days to review substantiation.
- 3) PSRT makes decision about appeal
 - a. PSRT finds DCS *did not* have probable cause to substantiate. They unsubstantiate and send letter to parent notifying them of unsubstantiation. The case does NOT go on to a hearing.
 - b. PSRT finds DCS *did* have probable cause to substantiate. They send a letter to parent notifying them they did a review and they will be scheduling a hearing for them.
- 4) PSRT sends letter to parents notifying them of hearing date. They tell parents if they want to talk settlement, to notify PSRT 20 days before hearing date.
 - A. Parents decide to try settlement. They will be put on central registry, but the wording of the substantiation may change to something the parents can live with being on their record. If parents cannot settle on something then it goes on to hearing. If they do, PSRT notifies court that parents settled and no longer need hearing.
 - B. Parents do not ask for settlement conference then the issue goes to hearing.
- 5) The hearing is at the Office of Administrative Hearing. It will be heard by an Administrative Law Judge. The ALJ will make a decision and send the recommendation to the DCS director. The director will then decide to accept/change/reject the decision.

--

Sincerely,

Sarah Bruce, Assistant Ombudsman

Arizona Ombudsman - Citizens' Aide Office

Address: 3737 N. 7th St., Ste. 209 | Phoenix, Arizona

<<https://plus.google.com/109209421571997754105/about?gl=us&hl=en>> *Phone:*

(602)277-7292 | *Toll Free:* (800)872-2879

Exhibit 13

Email from DCS

EXHIBIT 13

From: Bruce, Sarah L.
Sent: Tuesday, May 16, 2017 1:23 PM
To: Jennifer Olonan <[REDACTED]@azoca.gov>
Cc: Melsek, Casey, M <[REDACTED]@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

Hey Jen, I tried to call but missed you. I had already spoke with her, as she is our complainant as well. She said she had been satisfied with the outcome, but let me know you called her, according to her, to ensure she knew what DCS was doing wrong and told her that the case should not have been substantiated because it didn't fall under any guidelines for substantiation. I concurred that there is a set timeframe, but explained unfortunately it is a known issue that PSRT is severely backlogged, which is why no representative is assigned at this time. I let her know I'd share her concern with PSRT and encouraged her to reach back out if she had any other questions or concerns. She thanked me and said she would do so.

Many thanks,
Sarah Bruce
Phone [REDACTED]
[REDACTED]@azdcs.gov

Exhibit 14

Email from DCS regarding the unsubstantiation
of the allegations

From: Bruce, Sarah L. [[mailto:\[REDACTED\]@AZDCS.GOV](mailto:[REDACTED]@AZDCS.GOV)]
Sent: Monday, May 22, 2017 2:48 PM
To: Jennifer Olonan <[\[REDACTED\]@azoca.gov](mailto:[REDACTED]@azoca.gov)>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

EXHIBIT 14

The field is unsubstantiating. I asked them to let me know when they put the letter in the mail, I'll let you know when I hear back.

Many thanks,
Sarah Bruce
Phone [REDACTED]
[REDACTED] [@azdcs.gov](mailto:[REDACTED]@azdcs.gov)

Agency Response



Arizona Department of Child Safety

Douglas A. Ducey
Governor

Gregory McKay
Director

April 20, 2018

Dennis Wells
Ombudsman-Citizens' Aide
7878 N. 16th Street, Suite 235
Phoenix, AZ 85020

Re: Investigation - Case #1701644

Dear Mr. Wells,

Please accept this as the Department of Child Safety's ("DCS" or "the Department") formal response to the final report of investigation in Case #1701644. At all times, the Department seeks to ensure that complaints from clients and members of the public are resolved in a prompt and professional manner. In this case, the total time from initial contact by the Complainant to resolution of the matter was just 13 days, and the Complainant indicated to the Department that she was satisfied with how her complaint was being handled. It was therefore distressing to receive notice of this investigation nearly two months after the matter had been brought to a resolution that was satisfactory to the Complainant. Further, it appears that the scope of this investigation went beyond the issue that the Complainant initially raised—namely that she wished to know when she would receive an appeal notice and that she disagreed with the proposed finding.

Enclosed, you will find our final response to your investigation. If you have any questions, please contact my office at (602) 255-2500.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory McKay". The signature is written over the printed name and title.

Gregory McKay
Director

Enclosure

cc: Lauren Lowe, General Counsel, DCS
Casey Melsek, Ombudsman, DCS



ARIZONA DEPARTMENT OF CHILD SAFETY

Response to Ombudsman-Citizens' Aide Investigation

Case #1701644

Please accept this as the Department of Child Safety's ("DCS" or "the Department") formal response to the final report of investigation in Case #1701644. At all times, the Department seeks to ensure that complaints from clients and members of the public are resolved in a prompt and professional manner. In this case, the total time from initial contact by the Complainant to resolution of the matter was just 13 days, and the Complainant indicated to the Department that she was satisfied with how her complaint was being managed. It was therefore distressing to receive notice of this investigation nearly two months after the matter had been brought to a resolution that was satisfactory to the Complainant. Further, it appears that the scope of this investigation went beyond the issue that the Complainant initially raised—namely that she wished to know when she would receive an appeal notice and that she disagreed with the proposed finding.

Background on the DCS Central Registry

The Department of Child Safety's Central Registry is a confidential database of substantiated findings of abuse and neglect that is used for certain statutorily permitted purposes, including as a factor in the evaluation of prospective foster and adoptive parents and prospective state employees who would be working with children or vulnerable adults. Courts have determined that before an individual is placed on a child abuse registry that may affect employment, the individual has a right to due process. Within the Department of Child Safety (DCS), the Protective Services Review Team (PSRT) is the group that ensures that a parent, guardian, or custodian receives notice and an opportunity to challenge proposed substantiated findings of abuse or neglect prior to being placed on the Central Registry.

The process of placing a substantiated finding on the Central Registry is as follows:

- DCS Specialist or OCWI Investigator requests to propose substantiation of a finding. Proposed finding drafted and submitted to supervisor for approval.
- Supervisor approves requested proposed finding, proposed finding electronically forwarded to PSRT.

Ombudsman-Citizens' Aide - Case #1701644

Page 2

- PSRT conducts brief initial review to ensure finding meets basic finding requirements¹ and notifies parent of proposed finding and right to appeal.²
- If no timely appeal filed, finding is placed on Central Registry.
- If timely appeal filed and no other proceedings are pending in which the abuse or neglect allegation is at issue, PSRT reviewer reviews complete file. If full file review does not support proposed finding, PSRT will unsubstantiate and notify appellant. If full file review does support proposed finding, case is forwarded to Office of Administrative Hearings and administrative hearing is conducted before ALJ.
- ALJ conducts hearing and drafts recommended decision. DCS Director then accepts, rejects, or modifies ALJ decision, or allows ALJ's decision to certify and become the final decision. If decision to substantiate is upheld, finding will be placed on Central Registry. If decision to substantiate is overturned, then no finding will be placed on Central Registry.
- Appellant may appeal DCS Director's decision to Superior Court.

PSRT Processing Backlog

At the height of the investigations backlog, the Department had more than 16,000 "inactive" cases and more than 33,000 open reports. The Department made significant and sustained efforts to reduce the backlog of inactive cases and to bring the number of open reports down. As of April 16, 2018, the number of inactive cases was down to just 193 and the number of open reports was 6,460. The Department has been able to sustain these levels of inactive cases and open reports for nearly a year now. While the completion of so many investigations has resulted in a remarkable reduction in workload for investigators, it has meant that the workload of PSRT spiked as the proposed findings from all the closed reports worked their way through the system. The Department recognized this problem and has been actively working on multiple fronts to streamline processes and to bring down the average time to process a case at PSRT. In the last eight months, there have been substantial decreases in the total number of reports awaiting PSRT review (42.8% decrease), the number of reports over sixty (60) days (54.4% decrease), and the age in days of oldest report awaiting review (43% decrease). PSRT has implemented the DCS Management System and utilizes Standard Work and Visual Management. A legislative change

¹ The finding must identify the perpetrator, the child victim, and meet the elements of abuse or neglect. For example, an abuse finding must describe the injury that was sustained.

² In cases where the parent is involved in a dependency regarding allegations of abuse or neglect, the parent's right to appeal is through the dependency action, and the parent will only be placed on the Central Registry after the PSRT reviewer verifies that a dependency adjudication was made based on abuse or neglect. Similarly, if a parent is involved in another adjudicative proceeding where the allegation of abuse or neglect is at issue, that proceeding will serve as the appeal hearing, and the parent would not be placed on the Registry until the conclusion of that proceeding results in a determination that abuse or neglect occurred. Thus, the duties of a PSRT reviewer in handling those cases are somewhat different. This timeline focuses on cases involving an appeal that results in an administrative hearing.

Ombudsman-Citizens' Aide - Case #1701644
 Page 3

last year allowed for streamlined processing of substantiations that arise from dependency adjudications. PSRT continues to utilize personnel from other parts of the Department to assist with the workload. Finally, there are now computer-based and live trainings that PSRT is conducting for field staff in order to ensure better quality of findings that make it to PSRT (better documentation of findings reduces PSRT's workload because there is less back and forth between PSRT and the field).

Complainant's Case

DCS's handling of Complainant's complaint was swift and professional. Complainant initially contacted the DCS Ombudsman's Office on May 11, 2017, and by May 24, 2017, the Department had reviewed the finding in question and sent out a letter notifying Complainant that it was being unsubstantiated. The following is a detailed timeline of DCS's work to resolve Complainant's concerns:³

Complainant initially reached out to the DCS Ombudsman's Office on May 11, 2017. Advocate Sarah Bruce was assigned to the case and contacted Complainant the same day. Ms. Bruce explained the PSRT process to Complainant (including that the substantiation was only proposed at that point and was not on the Central Registry) and also explained that she had not received her letter from PSRT yet due to a backlog there. Ms. Bruce asked Complainant to contact her again if she still had not received a letter 30 to 60 days from that time. At that time Complainant indicated she had no further questions or concerns. After Ms. Bruce's communication with Complainant, there were several communications over the next several days between Ms. Bruce and an Arizona Ombudsman-Citizens' Aide (AZOCA) representative. AZOCA informed Ms. Bruce that, contrary to what Ms. Bruce believed, Complainant was not satisfied with the outcome and that she had "great concern" about the communication she had with the Department about her case.

On May 16, 2017, Ms. Bruce contacted Complainant again to ensure that all of her concerns had been addressed, as she understood from AZOCA that Complainant still had concerns. Complainant informed Ms. Bruce that she had been satisfied with the outcome and that in fact AZOCA had called her back to tell her that what DCS was doing was wrong and that she should have had her letter from PSRT within 14 days of case closure. Ms. Bruce let Complainant know that she would share the concern with PSRT and to please contact her again if she had any other questions or concerns. When Ms. Bruce reached back out to AZOCA that same day to update them on her conversation with Complainant, AZOCA requested that Ms. Bruce no longer contact Complainant. Also that same day, Ms. Bruce reached out to PSRT to follow up on the case. PSRT immediately reviewed the finding and determined that it did not meet substantiation criteria, and

³ Attached as Exhibit A is a copy of DCS Advocate Ms. Bruce's correspondence with AZOCA regarding Complainant's concerns. Complainant's name and case details have been redacted to protect her privacy as well as those of the children involved.

Ombudsman-Citizens' Aide - Case #1701644
Page 4

the finding was sent back to the field, where it was unsubstantiated. On May 24, 2017, a letter was sent to Complainant notifying her that the allegation was being unsubstantiated.

AZOCA formally notified DCS of its intent to investigate this complaint on July 19, 2017, nearly two months after the complaint had been resolved to Complainant's satisfaction.

Response to Findings and Recommendations

Finding and Recommendation 1:

The Department agrees that it did not meet the timeframes set forth in A.R.S. § 8-811 for notifying Complainant of her right to appeal the proposed substantiated finding. As explained above, the elimination of the investigations backlog unfortunately created another backlog—this time at PSRT—and the Department is working diligently and on many fronts to eliminate that backlog. However, it should be noted that while Complainant did not receive her letter in as timely a fashion as she should have, she was not placed on the Central Registry during that time and therefore suffered no harm as a result of the delay. The Department intends to continue to work diligently to eliminate the PSRT backlog in order to ensure full compliance with all statutory timeframes.

Finding and Recommendation 2:

The Department disagrees that it acted inefficiently with respect to notifying Complainant of her appeal rights. Field staff are not in a position to process appeals of proposed substantiated findings. Further, having PSRT issue the notification of appeal rights ensures that PSRT has an opportunity to conduct an initial brief review to determine whether the findings meet basic substantiation requirements. As the PSRT is in the best position to issue the notification of appeal rights, the Department believes the best way to address the timeliness issue is to continue towards elimination of the PSRT backlog.

Finding and Recommendation 3:

DCS disagrees that it acted unreasonably when sending the unsubstantiation letter but agrees that it would have been clearer to include a brief explanation clarifying that the letter was being sent after the proposed finding had been reviewed further and the proposed finding was now being reversed. In order to ensure uniformity, form letters are utilized by the field staff when sending notifications of case closure and substantiation. The Department will work to add additional explanatory text options for letters where a proposed finding was unsubstantiated after further review.

Finding and Recommendation 4:

The Department disagrees that it took action unsupported by an adequate statement of reasons and contrary to law by proposing to substantiate an allegation of neglect against the Complainant. Part of the purpose of having a separate part of the Department review proposed findings and handle

Ombudsman-Citizens' Aide - Case #1701644

Page 5

substantiation hearings is to have another set of eyes on proposed findings. It allows for insufficient findings to be caught prior to even having to go to an appeal hearing. That is precisely what happened here—when PSRT reviewed the case, it determined that the proposed finding did not meet the requirements of a neglect finding and informed the field of that, resulting in the field unsubstantiating the allegation. With respect to training, prior to receiving this investigative report, the Department had already implemented Computer Based Training (CBT) regarding substantiation and is also conducting in-person trainings regarding substantiation.

Finding and Recommendation 5:

The Department agrees that it should have obtained and retained a copy of the video upon which the investigation was based. The investigator reviewed the video at issue but was apparently unaware of how to retain a copy of the video, which had been posted on Facebook. We are working with our Information and Technology (IT) department to identify how to capture videos from sites like Facebook and how to retain them in our files. DCS will notify field staff of any new protocols developed with the assistance of IT staff.

Exhibit A

Bruce, Sarah L.

From: Bruce, Sarah L.
Sent: Thursday, May 25, 2017 10:06 AM
To: Jennifer Olanan
Subject: RE: Ombudsman Case #1701644- [REDACTED]
Attachments: [REDACTED] letters.pdf

Good Morning, Jen. I tried calling, but missed you. Dave called and let me know you'd like any records PSRT has for [REDACTED] I let him know I'd get back with you.

Normally, when someone is assigned a p-sub they review and if it is missing mandatory data they send an electronic nudge in CHILDS as well as an email explaining what is missing. The field then determines what they are going to do with it. Sometimes, they fix it and PSRT proceeds forward. Other times, they un-sub and PSRT doesn't touch it further.

In this case, it never was assigned so it did not go through the normal process. Dave looked at it when we brought it up to him and saw missing info, so alerted the field. They reviewed it and determined to un-sub so PSRT was no longer part of the process.

There was some confusion on the letters, I attached them here for you. Let me know if you have any other questions/concerns!

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Bruce, Sarah L.
Sent: Tuesday, May 23, 2017 1:37 PM
To: Jennifer Olanan
Subject: RE: Ombudsman Case #1701644- [REDACTED]

I will ask the team. [REDACTED] does have a copy of the original letter herself, she read it off for me when we spoke previously.

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Jennifer Olanan [<mailto:jolanan@azdca.gov>]
Sent: Tuesday, May 23, 2017 12:55 PM
To: Bruce, Sarah L. <Sarah.Bruce@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644- [REDACTED]

Thanks for the update. Can you send me the original letter that the CM sent out? And the new letter?

Thanks,
Jen

From: Bruce, Sarah L. [mailto:Sarah.Bruce@AZDCS.GOV]
Sent: Monday, May 22, 2017 2:48 PM
To: Jennifer Olanan <jolanan@azoca.gov>
Subject: RE: Ombudsman Case #1701644- [REDACTED]

The field is unsubstantiating. I asked them to let me know when they put the letter in the mail, I'll let you know when I hear back.

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Bruce, Sarah L.
Sent: Thursday, May 18, 2017 7:09 AM
To: Jennifer Olanan <jolanan@azoca.gov>
Subject: RE: Ombudsman Case #1701644- [REDACTED]

Good Morning, Jen. PSRT has sent the finding statements back to the field to correct. The field is working on it now. They do not have a copy of the video

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Bruce, Sarah L.
Sent: Tuesday, May 16, 2017 1:23 PM
To: Jennifer Olanan <jolanan@azoca.gov>
Cc: Melsek, Casey, M <Casey.Melsek@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644- [REDACTED]

Hey Jen, I tried to call but missed you, I had already spoke with her, as she is our complainant as well. She said she had been satisfied with the outcome, but let me know you called her, according to her, to ensure she knew what DCS was doing wrong and told her that the case should not have been substantiated because it didn't fall under any guidelines for substantiation. I concurred that there is a set timeframe, but explained unfortunately it is a known issue that PSRT is severely backlogged, which is why no representative is assigned at this time. I let her know I'd share her concern with PSRT and encouraged her to reach back out if she had any other questions or concerns. She thanked me and said she would do so.

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Jennifer Olanan [mailto:jolanan@azoca.gov]
Sent: Tuesday, May 16, 2017 1:01 PM
To: Bruce, Sarah L. <Sarah.Bruce@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644- [REDACTED]

At this point I would prefer you not to go to our complainant.

From: Bruce, Sarah L. [mailto:Sarah.Bruce@AZDCS.GOV]
Sent: Tuesday, May 16, 2017 12:51 PM
To: Jennifer Olanan <jolanan@azdcs.gov>
Subject: RE: Ombudsman Case #1701644- [REDACTED]

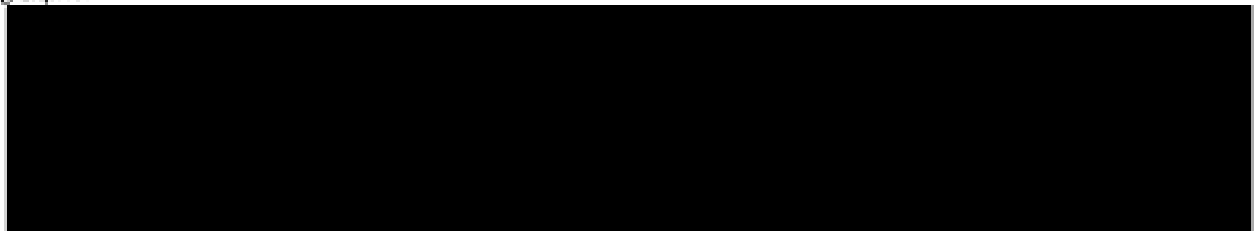
I checked confirmed [REDACTED] does not have her own case.

She also expressed to me that she did not agree with the substantiation. I explained that there is no substantiation at this time, only a proposal of substantiation. I explained at this point it stays as proposed, until it goes to PSRT, which is the process outlined in law where she can appeal the proposed substantiation. Our office does not stand in for this process, so I directed her to await the INL from PSRT so she can start her appeal.

Thank you for sharing that she does still have concerns about communication with PSRT. I will call her and discuss that matter with her and ensure her concern is provided to PSRT.

The finding date was 3/4/17 and the closure date was 3/5/17.

Finding explanation:



I'll ask the team for the video.

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Jennifer Olanan [mailto:jolanan@azdcs.gov]
Sent: Tuesday, May 16, 2017 12:10 PM
To: Bruce, Sarah L. <Sarah.Bruce@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644- [REDACTED]

Thank you for the information. I am afraid the case is more complicated. I spoke with the [REDACTED], who is the complainant. I miss understood in my first email what her role was in the case, sorry about that.

She has great concern about the communication (PSRT letter) on her case and she does not agree with the proposed substantiation of neglect.

The concern regarding the letter is, that once an error was uncovered, there was not act of urgency to provide her with the letter.

1. When was the official close date of the case?
2. What is the rational for the proposed substantiation and the finding of neglect?
3. Can you provide me the video, in which the case is based on?

Best,
Jen

From: Bruce, Sarah L. [mailto:Sarah.Bruce@AZDCS.GOV]
Sent: Tuesday, May 16, 2017 7:19 AM
To: Jennifer Olanon <jolanon@azoca.gov>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

I don't remember. My CHILDS is down so I can't look it up right now. The report numbers from the letter were both from the below CID.

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Jennifer Olanon [mailto:jolanon@azoca.gov]
Sent: Monday, May 15, 2017 12:35 PM
To: Bruce, Sarah L. <Sarah.Bruce@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

So there was no case against her?

From: Bruce, Sarah L. [mailto:Sarah.Bruce@AZDCS.GOV]
Sent: Monday, May 15, 2017 12:04 PM
To: Jennifer Olanon <jolanon@azoca.gov>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

This is the CID with the substantiation as her as a [REDACTED] I didn't look in to other CID's because she was calling about this one. Let me know if you need me to look it up.

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Jennifer Olanon [mailto:jolanon@azoca.gov]
Sent: Monday, May 15, 2017 12:01 PM
To: Bruce, Sarah L. <Sarah.Bruce@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

That case is list as, [REDACTED]? Dose the [REDACTED] not have her own case?

From: Bruce, Sarah L. [mailto:Sarah.Bruce@AZDCS.GOV]
Sent: Monday, May 15, 2017 11:54 AM
To: Jennifer Olanon <jolanon@azoca.gov>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

Sure, it is 529763

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Jennifer Olanan (<mailto:jolanan@azoca.gov>)
Sent: Monday, May 15, 2017 11:05 AM
To: Bruce, Sarah L. <Sarah.Bruce@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

Can you please provide me with her CID# please?

From: Bruce, Sarah L. (<mailto:Sarah.Bruce@AZDCS.GOV>)
Sent: Monday, May 15, 2017 9:40 AM
To: Jennifer Olanan <jolanan@azoca.gov>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

I am not saying that she should wait 120 days. I gave her an idea of when she should check back, and that was 30-60 days, but she can check in with us whenever she would like on that. She can also raise a complaint to PSRT if the wait period is an issue. She said she had no further questions or concerns, and when I spoke with her was satisfied with the outcome. If she is not satisfied with the outcome she can definitely contact us back, please let me know if you've spoken with her and she has any issues. I can contact her and address them.

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Jennifer Olanan (<mailto:jolanan@azoca.gov>)
Sent: Friday, May 12, 2017 2:34 PM
To: Bruce, Sarah L. <Sarah.Bruce@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

Thank you for the update Sarah.

In reviewing your email I am confused. You stated "I let her know she can call our office if it has been a like 30-60 days and she hasn't gotten her letter yet, she said that sounded good." But from my understanding it has already been a couple of months of her waiting for this letter, correct me if I am wrong.... Per statute 8-811. Hearing process; definitions; B. The department shall send the notice prescribed in subsection A of this section by first class mail no more than fourteen days after completion of the investigation. This is where I am confused, are you stating that she should wait up to 120 days for the letter?

Thanks, Jen

From: Bruce, Sarah L. (<mailto:Sarah.Bruce@AZDCS.GOV>)
Sent: Thursday, May 11, 2017 3:28 PM
To: Jennifer Olanan <jolanan@azoca.gov>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

I actually just spoke with [REDACTED] earlier today around 1-2pm. In the letter she has cited the two report numbers that were being investigated, not case numbers. I had her read it to me and it said reports. It is true one report has allegations on [REDACTED] and the other one has allegations on her. She will be getting a letter from PSRT as soon as someone is assigned. A psrt reviewer hasn't been assigned yet. I explained how the process works, got her current address and updated it today. She said she didn't have any further questions right now. I let her know she can call our office if it has been a like 30-60 days and she hasn't gotten her letter yet, she said that sounded good.

Many thanks,
Sarah Bruce
Phone 602-255-2663
Sarah.Bruce@azdcs.gov

From: Strike, Amy E On Behalf Of Ombudsman
Sent: Thursday, May 11, 2017 2:33 PM
To: Jennifer Olanon <jolanon@azdcs.gov>
Cc: Bruce, Sarah L. <Sarah.Bruce@AZDCS.GOV>
Subject: RE: Ombudsman Case #1701644-[REDACTED]

Good Afternoon Ms. Olanon,

The DCS Office of the Ombudsman has received your inquiry on behalf of [REDACTED]. Sarah Bruce will be researching and responding to this inquiry. If you have additional questions/concerns/information, please feel free to contact Sarah directly.

Thank you,

Please Note: My email address has changed to Amy.Strike@azDCS.gov



*Arizona
Department of Child Safety*

Amy Strike
Administrative Assistant III
Department of Child Safety
3003 N. Central Avenue
Phoenix, AZ 85012
p. 602-255-2691
f. 602-255-3262
Amy.Strike@AZDCS.gov
[AZDCS Website](#) | [Twitter](#) | to report child abuse or neglect: 1-888-SOS-CHILD

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From: Jennifer Olanon [mailto:jolanon@azoca.gov]
Sent: Thursday, May 11, 2017 1:31 PM
To: Ombudsman <Ombudsman@AZDCS.GOV>
Subject: Ombudsman Case #1701644- [REDACTED]

Good Afternoon,

[REDACTED] contacted us about her case being closed as substantiated. She stated that she got the first letter from the CM but did not get the second letter from PSRT to appeal. She provided me with two CID's; 936653 and 948594. She stated she believes one case could be hers and one could be the mothers case, but she was not sure. Can you check to see if she did get the letter and if she did not could we see why?

Just as an FYI; I am currently without CHILDS but the help desk is hoping it up and running soon. This is why I don't know what CID goes to what case.

Thanks,
Jen

—
Jennifer Olanon, Assistant Ombudsman
Arizona Ombudsman-Citizens' Aide
P | 602.277.7292
F | 602-277-7312
jolanon@azoca.gov
www.azoca.gov

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[illegible]

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Office of Proposed Substantiation of Child Safety Reports

Abstract

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On 12/1/00 and 2/20/07, the Department of Child Safety (DCS) received a report of suspected child abuse, neglect, or child endangerment regarding a child or children in joint care, custody or control. The investigation has been completed, and the case is closed. No further action is warranted.

- ☒ Your name will be shared for:
- ☐ Your name will remain secret for all time and safety.

we did not recommend the following actions as a result of the investigations:

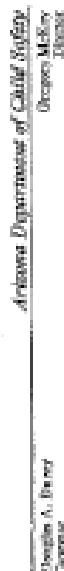
[illegible]

Thank you for your comment and agreement with this investigation. (Child safety is of the utmost importance to us. If you have any further questions, please contact us at 1-800-333-9000 or at thehelpdesk@nbc.com.)

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July 2002
DCH Specials
928-481-1100
www.dchdc.com
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Working on Transhumanist Child Safety Report

Keywords: *depression, anxiety, self-esteem, self-efficacy, coping strategies, social support*

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On 12/03/2013 and 02/20/2017, the Department of Child Safety (DCS) received a report of suspected child abuse, neglect or abandonment regarding a child or children in your care, custody or control. Based upon the information reported to our investigation of this report, the report has been substantiated and based on the results of the investigation.

- ☒ Your car will be cleaned at
- ☐ Your car will remain open to order to ensure child safety.

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Thank you for your cooperation and assistance with this investigation. Child safety is of the utmost importance to us. If you have any further questions, please contact us at 920-607-1042 or info@saluspedcare.org.

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My Dec-12-1900 for Today's dream

Dr. M. Fiedler
 1000 S. 2nd Avenue
 St. Petersburg, FL 33701
 813-442-7141

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